REMARKS

Claims 76-110 are pending, and subject to restriction under 35 U.S.C. § 121 between two groups. Applicants believe that this is the third restriction in the case. The rejection is improper.

In February of this year, Applicants responded to the second restriction, stating:

> Applicants feel compelled to point out that the Second Restriction **should not have been applied to any claims other than independent claim 47**, and its dependent claims 48 and 49, **as the Formulae Ia and Ib were not found in claims 11-30, 56-57, and 65-67**.
>
> Nonetheless, to aid the Examiner, Applicants have canceled claims 11-30, 47-49, 56-57, and 65-67 (without prejudice or disclaimer) and are now adding new claims 76- 110. Applicants have attempted to generally hew to the previously pending claims, but advise the Examiner that they have taken the opportunity to reorganize and rewrite claims to cover embodiments they wish to protect. Based on the previously grouped claims, Applicants believe they are still within the scope of the multiple compositions of Group V of the restriction requirement of April 4, 2001 ("First Restriction"; covering "Claims 11-30, 47-49, 56-57, and 65-67, drawn to multiple compositions"). Likewise, in claim 107, Applicants are pursuing a scope similar to the Examiner's Group I (i.e., X^{1d-4d} are carbon based).

This is relevant because Applicants advised the Examiner that he was reading limitations into the claims that were not present, and that in claim 107, "X^{1d-4d} are carbon based."

With regard the present Office Action, Applicants do not understand the Office Action's comment regarding canceled claim 47 that "This error is inadvertent omission of formula Ia and Ib after indazole nonpeptide[.]" More importantly, Applicants are surprised that Group I covers "[c]laims 76-110, drawn to diagnostic and therapeutic composition comprising a metal, chelator and a targeting moiety namely indazole nonpeptide Ia or Ib wherein the X^{1d}, X^{2d}, X^{3d} and X^{4d} are all carbon ...". Applicants note that **X^{1d}, X^{2d}, X^{3d} and X^{4d} are not part of the independent claims, and are only mentioned in one claim, dependent claim 107**. Reference to these variables with regard to other claims is improper.

Applicants are even more confused by Group II, which is said to cover "[c]laims 76-87.[*sic*], 91-93, 96, 100-110 ... wherein X^{1d}, X^{2d}, X^{3d} and X^{4d} are independently carbon or nitrogen such that all X^{1d}, X^{2d}, X^{3d} and X^{4d} **are not all carbon** ...". Emphasis added. As

mentioned in the previous response, claim 107 specifies that X^{1d}, X^{2d}, X^{3d} and X^{4d} are substituted or unsubstituted carbons. **Thus, Group II that cannot cover claim 107.**

Applicants traverse the rejection, and elect Group I with traverse only in order to comply with 37 CFR § 1.143. In summary, the restriction requirement is improper, and should be withdrawn. Moreover, the time lost due to the improper restriction should be applied to a patent term adjustment as a delay through the fault of the Patent Office, in addition to the time that the file was lost.

For future reference, there are only two independent claims – 76 and 101. Independent claim 76 recites "A composition, comprising: a metal; a chelator capable of chelating the metal; an indazole nonpeptide targeting moiety covalently bound to the chelator, either directly or via an optional interposed linking group, wherein the targeting moiety binds to a receptor that is upregulated during angiogenesis; and at least one of a chemotherapeutic agent or a radiosensitizer agent. In contrast, independent claim 101 recites "A composition, comprising: an indazole nonpeptide targeting moiety attached to a surfactant via a linking group, wherein the targeting moiety binds to a receptor that is upregulated during angiogenesis; and an echogenic gas.

The Examiner is invited to call the undersigned to resolve any further issues before examination begins.

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